BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

In the Matter of	)	
Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television	)	MM Docket No. 00-39

To: The Commission

COMMENTS OF PEGASUS COMMUNICATIONS CORPORATION

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Summary

The Commission must afford digital television broadcasters the greatest flexibility possible in order to facilitate the transition to digital television. At this stage in the transition, it is essential that the Commission speed the conversion process in order to ensure the rapid introduction of a reliable and effective DTV service. The successful transition to DTV relies on the public's ability to receive easily a dependable digital signal, something it is not clear the current 8-VSB standard can provide. Therefore, broadcasters must be given the option to use COFDM as an alternative transmission standard. Additionally, there are no grounds on which for the Commission to reverse its initial decision and to now impose an ill-fitting city-grade service requirement on digital broadcast television. A last minute change in policy will jeopardize the entire DTV transition by undermining the substantial investment of time and money that broadcasters have made in securing transmitter locations. Instead of imposing arbitrary contours, which may or may not ensure reliable service to a station's principal community, the Commission should look to the merits of a station's proposal to determine if it is adequately serving its community. By these comments, Pegasus urges the Commission to refrain from imposing an unnecessary replication requirement or a principal community contour requirement and accelerate the transition process by giving broadcasters the option to use COFDM modulation technology for DTV broadcasting.

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Pegasus Communications Corporation ("Pegasus"), by its attorneys, hereby submits its Comments in response to the Commission's Notice of Proposed Rule Making ("NPRM") *In the Matter of Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MM Docket No. 00-39, FCC 00-83, released March 8, 2000. As set forth below, Pegasus submits that the Commission should allow digital television broadcasters the greatest flexibility possible in order to facilitate the transition to digital television. Within the limits of flexible, minimally restrictive technical rules, broadcasters must have the ability to determine what course of action will best suit the new digital context. The Commission's foremost goal in its DTV review should be to speed the transition process in order to ensure the rapid introduction of a reliable, effective DTV service. Therefore, the Commission must seek to accelerate the process by giving broadcasters the option to use COFDM as an alternative transmission standard

and by refraining from any action that might hinder the creation of a reliable digital television service.

INTRODUCTION

Pegasus is the licensee of UHF television stations in a number of small to mid-sized television markets in the United States. Among others, Pegasus operates stations in the following markets: Wilkes Barre-Scranton, Pennsylvania, Portland-Auburn, Maine, Chattanooga, Tennessee, Jackson, Mississippi, and Tallahassee, Florida-Thomasville, Georgia. In accordance with the Commission's rules, Pegasus was allotted DTV channels premised on the operation of its future digital facilities from the same locations currently employed by its NTSC stations. In a few cases, however, Pegasus has found it necessary to propose the relocation of its digital facilities to a different site in order to overcome the limitations of both the original transmitter site and the characteristics of digital broadcast transmissions. Such proposed relocations have also allowed Pegasus to attempt to optimize its DTV facilities in order to provide digital service to the widest audience possible, an element essential to the digital transition. The facilities proposed by Pegasus will continue to provide a digital signal to the community of license, as required by the Commission's rules, while seeking to maximize the number of people able to receive the station's signal.

By the above-referenced NPRM, the Commission began its first periodic review of the progress of the conversion of the nation's television system from analog to digital technology. This review seeks to ensure that DTV, and the ultimate recovery of the spectrum currently used for broadcasting analog television, fully serves the public interest. Among the issues discussed therein, the NPRM specifically solicits comments on the need for an explicit replication requirement or city-grade service requirement for DTV broadcasters. In addition, the

Commission requests comments on the status of the 8-VSB DTV modulation standard. In both areas, Pegasus urges the Commission to speed the DTV transition process by providing broadcasters with the maximum flexibility to develop and serve the public interest.

DISCUSSION

I. The Commission should allow broadcasters the option to employ COFDM as a transmission standard for DTV

The Commission should give digital television broadcasters the option to use Coded Orthogonal Frequency Division Multiplexing ("COFDM") as an alternative DTV transmission standard. Advances in DTV modulation technology have lead to the development of COFDM as a viable alternative to the current 8-VSB ATSC DTV standard. As discussed below, some broadcasters have questioned the ability of 8-VSB to handle problems of complex multipath and to provide a viewable signal, especially in urban areas. The successful transition to DTV relies on the public's ability to receive easily a dependable digital signal, something it is not clear 8-VSB can provide. As set forth in the initial premise to these comments, Pegasus believes that it is important for the Commission to allow DTV to develop in as flexible a fashion as possible, so that licensees can best explore all technical variations and business models to discover one that is economically viable. This is particularly true in the smaller television markets where the high cost of the digital conversion is roughly the same as in larger markets, but forms a much greater percentage of station revenues in such markets with smaller revenue bases. Therefore, the Commission must expand the transmission options currently available to digital television broadcasters and allow licensees the option to use COFDM as a DTV transmission standard. COFDM does not present a roadblock to the introduction of DTV, but rather a possible catalyst for the rapid introduction of a reliable DTV service.

A. In order for digital broadcast television to succeed it is essential that broadcasters have a reliable and effective delivery method to provide DTV service to the public

The ultimate success or failure of the transition to DTV pivots on the viewing public's ability to receive an adequate and reliable over-the-air signal. Without an effective and reliable delivery method, decades of preparation, millions of dollars, and the confidence of American consumers will be lost. Therefore, one of the most important issues the Commission will address in its review of DTV is the vitality of ASTC's 8-VSB DTV transmission standard. Recently, some studies have raised questions about the 8-VSB standard and its ability to provide viewers with adequate and reliable service. It is not clear that 8-VSB's progress to this point justifies the position of exclusivity that it enjoys. Currently, broadcasters, and more importantly consumers, do not have the solid foundation of an established transmission standard on which to build goals and expectations for the introduction of digital broadcast television.

The fact that the success of the DTV transition is consumer driven cannot be emphasized enough. If broadcasters are unable to convince consumers of the value of DTV, there is no DTV transition, no reclamation of analog television channels, and no digital future for broadcast television. At a time when technological advances are providing consumers with better, faster, and more efficient products, 8-VSB appears to be a more fragile transmission method than the analog NTSC standard. Real world demonstrations seem to indicate that 8-VSB requires a larger and more complex antenna than NTSC in order to capture a reliable signal. Additionally, 8-VSB does not support the portability that consumers have come to expect from analog broadcast television.

Without a reliable over-the-air transmission method broadcasters will be unable to provide a dependable digital signal to the public. The issue of imposing a must-carry

requirement on cable systems to carry digital television signals remains an open question that is far from being answered. Without intervention by Congress or the Commission, cable systems will be reluctant to give up valuable bandwidth in order to carry the full DTV signal of a competing broadcast station. The recent dispute between Time Warner Cable and Disney/ABC vividly illustrates the problems that NTSC stations already face in the urban marketplace. The ability of a cable system to take a station off the air evidences the need for a more robust method of over-the-air broadcasting and not a fragile system that will be dependant on cable carriage in order to reach an audience. As COFDM appears to allow the type of robust service that DTV requires, broadcasters should have the option to use COFDM as an alternative transmission standard. Ultimately, broadcasters need a viable, over-the-air transmission standard to ensure that it can bring its product to the marketplace and it is incumbent upon the Commission to facilitate, rather than hinder, the establishment of such a standard.

B. Time is of the essence in the transition to DTV and the Commission should allow the rigors of the marketplace to determine the preferred transmission standard

At this late stage in the DTV transition, the Commission and broadcasters do not have the luxury of time to start over and seek a new digital modulation technology. Broadcasters must work with the two methods that are currently operational, COFDM and 8-VSB. Faced with impending dates for the operation of DTV facilities and the return of analog television channels, not to mention the pressures of a marketplace which is increasingly providing digital products in the form of Direct Broadcast Satellite ("DBS") and cable, broadcasters need a reliable transmission standard quickly. Therefore, Pegasus suggests that the best solution is to allow the marketplace to decide which method is preferable and which method will deliver the most effective and reliable DTV signal to the public. The Commission should allow broadcasters the

flexibility to use either of the contending standards and encourage the development of an acceptable transmission method by the marketplace. Introducing the two options into the marketplace and allowing broadcasters, manufacturers, and consumers to determine the best standard is the most effective way to bring a reliable DTV service to the public within the given timeframe.

II. The Commission should refrain from imposing either a replication requirement or a requirement that DTV stations provide a stronger signal to their community of license

There are no grounds on which for the Commission to reverse its initial decision and to now impose an ill-fitting city-grade service requirement on digital broadcast television. A last minute change in policy will jeopardize the entire DTV transition by undermining the substantial investment of time and money that broadcasters have made in securing transmitter locations. Instead of imposing arbitrary contours, which may or may not ensure reliable service to a station's principal community, the Commission should look to the merits of a station's proposal to determine if it is adequately serving its community. In order to speed the transition to DTV and ensure its success, the Commission must afford licensees the flexibility to locate their DTV transmitting facilities wherever necessary in order to maximize the number of people capable of receiving a usable digital signal, provided the relocation does not cause any additional interference. Therefore, Pegasus urges the Commission to refrain from imposing an unnecessary replication requirement or a principal community contour requirement, the negative consequences of which could cripple the DTV transition while providing no demonstrable benefit to the public.

A. There are no grounds for the Commission to reverse its initial decision not to require DTV licensees to provide service area replication or a city-grade signal

The Commission's NPRM fails to articulate any evidence that the Commission's initial action refraining from requiring the replication of analog service coverage or signal strength contours for digital television is no longer valid. While one principle underlying the Commission's allotment of DTV channels to existing NTSC licensees was the replication of the NTSC station's Grade B contour, there is no explicit requirement that a DTV station provide the exact same coverage afforded by the NTSC station.[1] At no point did the Commission require licensees to actually duplicate the exact service area of its analog NTSC channel. Instead, the Sixth Report and Order merely employed the notion of replication as a means of comparing a licensee's analog channel to a proposed digital channel in an attempt to grant the licensee a digital channel capable of providing geographic coverage similar to that of the existing analog station. Similarly, no requirement was ever adopted mandating that DTV stations provide a stronger strength signal to their community of license.[2] The Commission provides no grounds for its apparent reversal in policy and its suggestion that DTV licensees now be required to provide a signal of a certain strength to its community of license.

The Commission states that it is concerned that the lack of an explicit replication requirement or a city-grade service requirement may encourage some licensees to locate their proposed DTV facilities at a substantial distance from their NTSC facilities and communities of

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[1] Sixth Report and Order in MM Docket No. 87-268, 12 FCC Rcd 14588 (1997) ("Sixth Report and Order"), on recon., Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, 13 FCC Rcd 7418 (1998), on further recon., Second MO&O, 14 FCC Rcd 1348 (1998).

[2] NPRM at ¶ 17.

license, and that this "may have negative consequences for the transition to digital television."[3] However, the NPRM fails to articulate exactly what, if any, negative consequences would result if licensees were allowed to move their DTV facility away from their NTSC facility or their community of license. Without a clear demonstration of the grounds for the Commission's proposed policy reversal, and a showing of the need for such a new regulation, it is inappropriate for the Commission to change its rules. It is a long-established tenant of administrative law that a government agency may not change policy without elucidating the specific grounds on which its reversal is based. Section 706(2)(A) of the Administrative Procedure Act requires a reasoned explanation for the Commission's proposed actions in order to justify that prior policies and standards are being deliberately changed, not casually ignored.[4] Furthermore, by failing to provide factual details supporting its proposals the Commission has precluded any meaningful comment on the subject. When giving notice in a rule making proceeding, the agency "must provide sufficient factual detail and rationale for the rule to permit interested parties to comment meaningfully."[5]

Other than the Commission's "gut" instinct that allowing a station to move its DTV transmitter site away from its community of license is a bad thing, the Commission points to no demonstrable injury or negative consequence which would justify the imposition of a replication or signal strength requirement on DTV licensees. Without identifying more substantial grounds

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[3] NPRM at ¶ 17.

[4] See, Motor Vehicle Mfrs. Ass'n v. State Farm Mutual Auto Ins. Co., 463 U.S. 29, 43-44 (1983); Office of Communication of United Church of Christ v. FCC, 707 F.2d 1413, 1425 (D.C. Cir. 1983).

[5] Florida Power & Light Co. v. United States, 846 F.2d 765, 771 (D.C. Cir. 1988), cert. denied, 490 U.S. 1045 (1989).

for this policy reversal it would be unjust and inappropriate for the Commission to modify its rules at this stage in the digital transition.

While Pegasus acknowledges that there is always the possibility that a station licensed to a community near a larger population center may seek to leave its principal community and migrate toward the larger city, the Commission has not substantiated that this is a problem or that such relocations are harmful to the public interest. Moreover, there is no need to adopt a far-reaching and potentially onerous policy; a licensee's current obligations are sufficient to ensure that DTV stations will serve their communities in an admirable fashion. Presently, DTV licensees are required to provide their principal community with a digital signal and to broadcast in the public interest. This requirement, along with the innate goal of maximizing the coverage area and service provided by the station, will ensure that digital television broadcasters, just as analog television broadcasters before them, continue to serve their communities' interests.

B. If the Commission adopts its proposed requirements it will substantially delay the DTV transition

If the Commission were to adopt its proposed rules it would cause substantial delays for the DTV transition. For the Commission to changes its rules at this late date on such an important and far-reaching issue is inappropriate, as well as inherently unfair, and will have a negative impact on the DTV build out. The Commission's proposed requirements would severely curtail where licensees could locate their transmitters and would force many broadcasters who have already secured a transmitter site to find another location. This is not an insignificant issue, as the transmitter site and tower form the single most important element of a station's conversion to digital broadcasting. Towers and transmitter sites require the longest lead-time of any aspect of the transition, as the licensee must deal with issues such as

availability, site selection, lease negotiations, zoning, engineering, and construction. The tower is also often the most expensive part of the DTV transition.

Based on Pegasus's own experience, it is a given fact that if the Commission modifies its rules to impose a replication or contour requirement at this point in the DTV transition it will have severe negative consequences for DTV and cause substantial delays in the build out of digital facilities. Contractual problems, increased costs, and complications with site locations will jeopardize the transition to DTV. Such delays will prevent broadcasters from introducing digital television to the public in a timely fashion, which in turn will cripple DTV's ability to compete with other providers, as DBS and cable systems rise to dominate the market for digital television services. Without a clear justification for the proposed requirements, or a clear understanding of the practical effect of the rule, the Commission threatens to penalize those broadcasters who have committed substantial time, money, and resources to DTV. The Commission's proposal will only succeed in delaying the transition and undermining the progress the industry has made thusfar.

In addition, like many of the Commission's prior decisions regarding digital television, the instant proposal will harm small market broadcasters more than it will large market broadcasters. In the past, the Commission's actions in DTV have often impacted the small to mid-sized markets much more severely than the larger markets. While small market television stations deal with the same capital costs for the DTV build out, they by definition have smaller viewing audiences and smaller market revenue, and are thus not as well situated to absorb the financial burden attendant to the DTV transition. With regard to a replication requirement or a city-grade contour requirement, the proposal will harm stations in smaller markets by preventing them from improving their coverage area through the relocation or co-location of their

transmitter facilities. In contrast, stations in larger, urban markets are often already centrally located or have an effective NTSC transmitter site from which to broadcast their digital signal.

C. By suggesting that DTV stations be required to provide signal strength contours, the Commission is attempting to apply an analog answer to a digital question

The Commission's suggestion that a digital television broadcaster be required to provide a stronger signal to its community of license is an ill-advised attempt to force an analog application into a digital context. The NPRM presents no evidence that signal strength contours bear any useful application to DTV broadcasting. The Commission states in the NPRM that it believes that a requirement for a stronger signal to cover a station's city of license would ensure that the DTV service contour would extend beyond the city of license for some distance.[6] The Commission suggests that field strengths be established for DTV based on the difference between the NTSC Grade B contour and the city-grade signal provided to the principal community. It is the Commission's belief that the resulting DTV coverage extending beyond the principal community service contour would be analogous to the NTSC Grade B service. It is unclear, however, that the Commission's presumption would in fact hold true as applied to DTV. Based on the different characteristics of digital transmissions, the DTV signal may not extend beyond the city-grade contour in a manner similar to the NTSC Grade B contour.

Furthermore, it is not clear that a stronger signal to the community of license would actually result in more reliable service to the principal community. As the NPRM states, "[i]n DTV, there are virtually no gradations in picture quality that are dependant on signal strength."[7]

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[6] NPRM at ¶23.

[7] NPRM at ¶28.

Digital television, unlike analog broadcast television, is an all or nothing proposition, such that when the receiver is unable to pick up an acceptable signal the picture screen will either freeze or display a blue screen. Therefore, increasing the strength of the signal to the principal community may not necessarily lead to a more dependable picture for residents in the station's community of license. Although the Commission acknowledges that the quality of a DTV picture has little correlation to the strength of the digital signal, the Commission nevertheless proceeds to suggest that licensees be required to provide a stronger signal to their community of license. In addition, analog service coverage is based on prediction methods that do not meaningfully take terrain characteristics into account. DTV propagation, however, is accomplished by the Longley-Rice method, which carefully analyzes terrain characteristics in order to determine a signal's coverage area. Thus, if a DTV station demonstrates that it places a digital signal over a particular community it does in fact reach that community, whereas an analog signal may not actually cover all areas within its predicted contour. The Commission's adherence to an outdated analog standard lacks any justification and threatens to impose a burdensome, and ultimately meaningless requirement, on DTV broadcasters.

Moreover, the requirement to provide a stronger signal to the community of license may actually result in *less* reliable reception in the principal community and therefore be harmful to the success of DTV. Given the potential reception problems identified by several broadcasters, a stronger signal over the principal community of license may actually lead to worse reception. Within the past year, some broadcasters have expressed concern over the ability of the ASTC 8-VSB DTV transmission standard and current DTV receiver technology to handle problems of

complex multipath.[8] Multipath occurs when a DTV signal arrives at a receiver from multiple paths at the same time, either by reflecting off of stationary objects, referred to as "static multipath," or objects in motion, such as people, cars, and precipitation, know as "dynamic multipath." Stronger digital signals in urban settings may experience greater static and dynamic multipath problems and thus actually be harder to receive than a weaker signal. Households located further away from the DTV transmitter site may experience fewer multipath problems, especially if they are located in a less densely populated area. In these areas, a DTV signal would not have as many buildings, cars, and people to reflect off of, making it easier for a receiver to capture a useable signal.

Although the Commission boldly states that, "a stronger principal community coverage requirement would improve the availability and reliability of DTV service in the city of license,"[9] the veracity of that supposition remains to be seen. The Commission should refrain from imposing a principal community contour requirement on DTV broadcasters until it understands and addresses any problems attendant to the 8-VSB transmission standard and the ability of digital receivers to handle problems of static and dynamic multipath. By this same NPRM, the Commission has placed the 8-VSB standard under review and asked for comments on the current status of the standard, as well as comments on any improvements in DTV receiver technology and indoor DTV reception.[10] It is inappropriate for the Commission to promulgate a regulation without knowing the consequences of its actions. Therefore, until the Commission settles the

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[8] NPRM at ¶ 11.

[9] NPRM at ¶ 32.

[10] NPRM at ¶ 12.

question of what transmission standard DTV will employ and until it ensures the ability of DTV receivers to handle multipath problems caused by strong signals in urban areas, it cannot require stations to provide a stronger signal to their community of license. Rather than imposing an ill-advised and ill-fitting contour requirement, the Commission should look at each individual situation and assess the strengths and merits of the station's proposal based on public interest factors and the ultimate goal of providing reliable digital broadcast television to the public.

D. Allowing DTV broadcasters the flexibility to maximize their digital facilities and relocate their transmitters is essential for the successful transition to digital television

The Commission's proposal to require a DTV station to provide its principal community with a stronger signal than the rest of the broadcast area will unnecessarily limit the ability of stations to move from their current locations. Like numerous other DTV licensees, Pegasus has proposed maximized facilities for several of its stations in order to reach the greatest number of viewers, while continuing to serve the station's respective community of license. In some instances, these proposed facilities may entail a relocation of the transmitter site and/or a channel change in order to increase the DTV station's coverage area. While the NPRM intimates that the Commission is disinclined to allow licensees to move away from their communities of license and towards a larger population center, such relocations will ultimately prove beneficial, and indeed necessary, to the success of the digital transition.

Consumers' acceptance of the new digital technology is paramount to the successful transition to DTV; however, consumers will switch to DTV only if they are able to receive easily multiple, reliable digital television signals. Therefore, if the relocation of a DTV station closer to a metropolitan area with a larger population increases the audience the station is able to reach, as well as the service the station is able to provide to the public, such a move will help ensure the

success of DTV. Ultimately, increasing the size of the audience able to receive a DTV signal is more important than setting an artificial requirement to provide a stronger signal to the community of license. This is especially true if the principal contour requirement prevents the relocation of the transmitter, thereby reducing the number of viewers able to receive the station's signal. If DTV is to succeed stations need to have the greatest flexibility possible in order to maximize their signal coverage and capture the largest viewing audience. While the Commission may be uncomfortable allowing stations to relocate their transmitter sites closer to a metropolitan area, it fails to explain why it is undesirable to facilitate the provision of a DTV signal to a larger audience. Furthermore, in light of the fact that under existing rules stations must continue to provide signal coverage to their community of license, the NPRM fails to demonstrate exactly how the move of a transmitter away from a station's community of license will result in service that is less reliable or available.

Allowing stations to modify their facilities and relocate their transmitters as necessary will result in better programming for all viewers, as well as a successful transition to digital television as more people are able to receive competing DTV signals. The imposition of a principal community contour requirement on digital television broadcasters will unnecessarily restrict a station's ability to modify its transmitter location and/or operating channel in order to maximize the effective reach of the station's signal. By creating an artificial requirement that the signal over the community of license be stronger than the rest of the service area, the Commission will sacrifice the optimization of new digital facilities in order to impose an inappropriate and unjustified requirement.

E. In the past, the Commission has encouraged DTV broadcasters to develop common transmitter sites, it cannot now penalize parties for seeking to move to a central location

As it points out in the NPRM, the Commission has previously encouraged DTV broadcasters to develop common transmitter sites to promote DTV build outs and to facilitate the introduction of digital television.[11] In the Sixth Report and Order, the Commission stated, "to provide broadcasters' flexibility, we will allow stations to relocate to other locations or co-locate their facilities with other broadcasters where such relocations and co-locations would not increase interference."[12] It is under this premise that DTV broadcasters have been operating as they seek to relocate their transmitter sites. Indeed, Pegasus has proposed common tower sites in some markets to co-locate DTV transmitters and speed the build out of digital facilities. The replication requirement or principal community contour requirement proposed in the instant NPRM would undermine broadcasters' attempts to relocate their transmitter sites to a common site, as well as contradict the Commission's clearly-stated prior policy.

In addition, if 8-VSB remains the sole transmission standard centrally locating one's DTV transmitting facilities will become even more essential. Reception of a DTV signal broadcast in 8-VSB requires the viewer to point the receiving antenna in the direction of the transmitter site of the channel the viewer wants to watch. That means that if the DTV stations in a given market are not co-located viewers will have to re-orient their antennas whenever they want to switch to another channel. If a broadcaster is forced to remain at its existing NTSC transmitter site, or within a few kilometers of that site, and cannot co-locate its facility with the

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[11] NPRM at ¶ 18.

[12] Sixth Report and Order at ¶ 102.

other DTV stations in the market it could have a crippling effect on the viewing audience that station is able to reach. With directionality being such an important issue, the viability of a DTV service could depend on the ability of broadcasters to co-locate their transmitter sites.

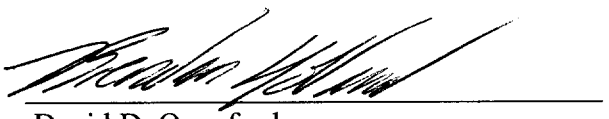
CONCLUSION

In order to speed the DTV transition process and ensure its success, the Commission must afford licensees the greatest flexibility possible, both in the location of their DTV facilities and in the use of an alternative transmission standard. In addition, there is no justification for establishment of a replication requirement or a city-grade contour requirement, and it would be inherently unfair, as well as detrimental, to impose such a requirement at this point in the DTV transition. Broadcasters have relied on and expended money based on the Commission's established policies. Instead of imposing signal contours, which may not ensure reliable service to a station's principal community, the Commission should look to the merits of each station's proposal. Television broadcasters will continue to serve the public in an admirable fashion and will provide their communities of license with reliable DTV service. Therefore, Pegasus urges the Commission to refrain from imposing either a replication requirement or a requirement that

DTV broadcasters provide a stronger signal to its community of license and to allow broadcasters the option of using COFDM modulation technology.

Respectfully submitted,

PEGASUS COMMUNICATIONS CORPORATION



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